

CITY COMMISSION MINUTES

February 19, 2009

12:00 p.m.

The special meeting of the Junction City City Commission was held on Thursday, February 19, 2009 with Mayor Mick Wunder presiding.

The following members of the Commission were present: Terry Heldstab, Mike Rhodes, Ken Talley, Jack Taylor and Mick Wunder. Staff present was: City Manager, Rod Barnes, Assistant City Manager Mike Guinn, City Clerk Tricia Gowen, and City Attorney Catherine Logan via phone.

PLEDGE OF ALLEGIANCE

NEW BUSINESS

- a. City Attorney, Katie Logan, discussed the City's optional procedures for regulating a City No Smoking Ban. Commissioner Talley stated a meeting should be scheduled for the coalition and the opposition to meet to create a policy that is agreeable to both sides. Commissioner Rhodes stated that he would be for a policy as long as Milford and Grandview Plaza have the same stipulations. Mayor Wunder stated that a meeting will be scheduled for Wednesday, February 25, 2009 at 5 p.m. to begin the discussions to create a policy. The meeting will consist of two representatives from the coalition, two representatives from the opposition, a representative from Grandview Plaza, Milford, the County and the City.

ADJOURNMENT

Commissioner Talley moved, seconded by Commissioner Heldstab to adjourn at 12:54 p.m. Ayes: Heldstab, Rhodes, Talley, Taylor, Wunder. Nays: None. Motion Carried.

APPROVED AND ACCEPTED THIS 3rd DAY OF MARCH 2009 AS THE OFFICIAL COPY OF THE JUNCTION CITY CITY SPECIAL COMMISSION MINUTES FOR FEBRUARY 19, 2009.



Tricia Gowen, City Clerk



Mick Wunder, Mayor

LOCAL SMOKING REGULATIONS

Junction City Commission
Special Meeting
February 19, 2009

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Local Jurisdiction

- Cities may regulate smoking within the City limits.
- Counties may only regulate smoking in unincorporated areas of the county unless the governing body of a city agrees to subject the city to the county regulation.

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City Regulation

- TWO ALTERNATIVES
 - Governing Body of the City may on its own consider and adopt an Ordinance regulating smoking. Such an Ordinance is passed in the same manner as other City ordinances.
 - Registered votes within the City under Kansas "initiative and referendum" law bring a proposed Ordinance regulating smoking to the Governing Body of the City.

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Initiative and Referendum Law

- Applicable only to Cities as authorized by Kansas Statutes. KSA 12-3013 and KSA 25-3601 *et seq.*
- "Initiative and referendum" can be used to enact new ordinances and also to amend and repeal existing ordinances.
- County governments and State government are NOT subject to initiative and referendum proceedings.

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Summary of Requirements

- A form of ordinance is prepared by proponents of the issue.
- A form of "question" for the petition and ballot is prepared and submitted to the county counselor for determination of the "legality of the form of the question" [note this submission can be done during or after the period the petitions are being circulated]. KSA 25-3601 specifies how the question must be proposed in initiative petitions and ballots.

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Summary of Requirements (con't)

- Petitions setting forth the question as it will appear on the ballot with either the full text of the proposed ordinance or title of the ordinance (which must be generally descriptive) must be signed by registered voters equal to 25% of the voters who voted at the last preceding city election.

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Summary of Requirements (con't)

- Technical requirements for form of petition and witnessing signatures not detailed here.
- Petition is filed with the City Clerk as a single document (not piecemeal) within 180 days of the first signature.
- City Clerk, based upon information supplied by the county election officer, determines if there are sufficient valid signatures on the petition and if so "certifies" the sufficiency of the petition.

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Summary of Requirements (con't)

- Within 20 days of City Clerk certification of signatures, Governing Body must either
 - Pass the proposed Ordinance - without alteration; or
 - Call an election to consider the proposed Ordinance (the term "referendum" means an election to consider a proposed law).

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Summary of Requirements (con't)

- If there is a regular city election within 90 days after the Governing Body acts, the referendum is held then [if possible, i.e. if there is sufficient time to get the ballot question on the ballots for the election].
- Otherwise the referendum is by special election. The special election can be conducted by mail ballot.
- Requires simple majority to pass.

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Amendment or Repeal

- An Ordinance enacted under initiative and referendum statute can only be amended or repealed:
 - By ordinance adopted through the same "initiative and referendum" process as used for the original ordinance.
 - By ordinance proposed by the Governing Body and submitted to voters at a regular City election.
 - After 10 years, by regular ordinance passed by Governing Body.

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State Regulation

- KSA 21-4009 through 21-4013 is a criminal statute enacted in 1987 which prohibits smoking in certain public places, except in designated smoking areas.
- The statute acknowledges that it does not preempt cities and counties from regulating smoking locally, so long as their regulations are "at least as stringent" as those imposed by the state statute.

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State Regulation

- The pending bill in the current session of the Kansas legislature amends the current non-smoking provisions by imposing stricter restrictions than in the current state statute.
- If passed, the stricter state regulations would govern cities and counties, which could pass stricter, but not more permissive, smoking regulations.

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